



# North Dakota Motor Fuels Newsletter

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Office of State Tax Commissioner

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## 2001 Legislation – Bills Passed

**HB2019** extends the one cent per gallon deduction from agricultural consumer refund claims for ethanol production incentives through calendar year 2003.

**SB2454** creates a definition for “biodiesel” and provides for a future tax reduction on fuel containing biodiesel.

“**Biodiesel**” means a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines.

The effective date for tax reductions will be triggered by a certification that a refining facility is operational in North Dakota which has a production capacity of at least ten million gallons of biodiesel per year. In the event that such a plant becomes operational, the special fuel taxes will be reduced as follows through June 30, 2003:

- ◆ Tax on diesel fuels without dye added and containing at least 2% biodiesel by weight will be reduced from \$.21 per gallon to \$.1995 cents per gallon.
- ◆ Tax on diesel fuels with dye added and containing at least 2% biodiesel by weight will be reduced from .02 times the sale price to .019 of the sale price.

## Tax Reports – Supply

A six month supply of fuel tax report forms and schedules will be mailed in late June or early July. Please use the new forms starting with the report for July 2001. The new forms have your name, address, license number, and FEIN+suffix preprinted on them.

## Special Fuel Tax Reports Inventory Reconciliation Changes

The special fuel tax report forms have changed. Lines 1 through 5 on the back of the report form will need to be completed each month before you can complete lines 1 through 8 on the front of the form. Reconciliations from book to physical inventory may still be made at increments of the licensee’s choosing but must be done at least once every 12 months. This change is expected to prevent reporting errors such as clear fuel reported as a sale of dyed fuel. This change should also simplify the calculation of tax due on losses.

If an inventory ends up in the negative because of presold fuel, please contact the Fuel Tax Section for instructions.

When the reduced tax rates for fuel containing biodiesel go into effect, a new supply of forms will be mailed.

## Computerized Tax Report Forms

Computer generated report forms may be acceptable **but only if you submit copies of your proposed forms for approval prior to using them.** Your forms **MUST** be identical to the ones provided by this office, including the font size, spacing, size of fill-in boxes, margins, and placement of pick-up points. Also, the forms must be color-coded. **It is preferable that you use the forms provided by this office** rather than creating your own.

## Schedules

Some Schedules of Gallons Received and Schedules of Gallons Disbursed are still being submitted with missing or incorrect information. Please check your reporting methods and make sure that you do the following:

- ◆ Assure that the person who prepares the reports is familiar with the instructions on the back of the form and those in the instruction booklet.
- ◆ Assure that your computer generated forms, including the header information, are identical to the forms provided by the Fuel Tax Section.
- ◆ Use the correct schedule: a Schedule of Gallons Received for your purchases, and a Schedule of Gallons Disbursed for your sales.
- ◆ Always check the correct schedule type.
- ◆ Prepare a separate schedule for each different schedule type. For example, report only tax free purchases on schedule type 2 and only imports on schedule type 3. For an export schedule (type 7), always include the name of the state or province and provide a separate schedule for each state or province involved. Duplicates are required for schedule type 7 only.
- ◆ Do not include sales to consumers **on schedule type 5 (Gallons Sold in North Dakota Tax Paid for Resale).** **This schedule is only for reporting tax paid sales to a business which will resell the fuel.**
- ◆ Do not use ditto marks or leave blank spaces. Fill in every space on each line.

- ◆ Include the FEIN (plus the state assigned suffix if it is other than 70) for each transaction. Make sure the FEIN plus state suffix in the header identifying your own business are the same as those on your license. The state assigned suffix identifies those companies which file separate tax reports for specific locations. Listings which include the FEIN's plus the state suffix are available from the Fuel Tax Section upon request.
- ◆ Enter the correct product code. This is especially important when reporting purchases of motor vehicle fuel. If your transactions include an alcohol/ethanol blend, please report your purchases according to how you were billed. If the seller shows gasoline (code 65), and ethanol/alcohol (code 241) or alcohol (code 123) separately, report them as separate purchases. If the seller shows the transaction as blended gasohol (code 124), report the purchase as blended gasohol (code 124).
- ◆ On the Schedule of Gallons Received, please use the same document number used by the seller. The bill of lading number is usually used for transport loads purchased from a supplier at a pipeline terminal. An invoice number is usually used for sales between distributors. The document number is the key to matching transactions between buyers and sellers.

### **Kerosene**

Special Fuel dealers need to report all purchases, sales, and inventories of kerosene. Kerosene sold for blending with diesel fuels for use in licensed vehicles is taxable at \$.21 per gallon. All other kerosene sales are subject to the 2% special fuel excise tax and should be reported under the heating fuel category. The same tax rates apply whether the kerosene is clear or dyed.

### **Retail Station Pump Sales of Dyed Diesel Fuel**

Licensees who have dyed fuel available at a retail pump should keep in mind that both state and Federal fuel tax laws must be considered. Dyed fuel should not be sold for use in licensed vehicles (with the exception of fuel sold to the state or local government for use on road construction and road maintenance projects). Sales from the dyed fuel pump should be monitored, and any questionable consumer purchases should be reported to the Fuel Tax Section.

### **Heavyweight #5-#6 Fuel Oil**

Heavyweight fuel oils such as #5 and #6 are subject to sales tax rather than fuel tax.

### **Credit Card Sales – U.S. Government**

Agencies of the U. S. Government are exempt from North Dakota fuel taxes. An increasing number of credit card companies are issuing cards to government agencies. Licensees may continue to take credit for taxes previously paid on credit card sales to agencies of the U. S. Government if applicable documentation is provided to the Fuel Tax Section. Also, retail service stations can now apply directly to the Tax Commissioner for refunds of state tax they paid

and were unable to collect on sales to an agency of the U. S. Government. (In the past retailers had to seek a refund or tax credit from their fuel supplier.)

Some agencies of the U.S. Government are now paying the state tax on their purchases and are applying directly to the Tax Commissioner for a refund.

### **Drive-offs – Fuel Tax Consequences**

When licensees adjust inventories from book to physical and determine gains or losses, the Tax Commissioner allows a deduction for documented losses, including theft. Unpaid drive-offs can be treated as theft on your inventory reconciliation, but only if they were reported to law enforcement and if the licensee provides a copy of that report.

### **Imports and Exports**

Licensees should review the definitions and the instructions for reporting imports and exports. If there is any question as to who is the importer or who is the exporter, please contact the Fuel Tax Section. As a general rule, the party that owns the fuel until it comes to rest outside North Dakota is the exporter. The party that owns the fuel until it comes to rest in North Dakota is the importer. Both importers and exporters must be licensed to do business in North Dakota. Any party to the transactions, except consumers, not licensed with the Tax Commissioner as an importer or an exporter, is automatically subject to the state's \$.21 per gallon fuel tax, or, in the case of aviation fuel, the state's \$.08 per gallon tax.

### **Period Covered on Tax Reports**

It appears there is a misunderstanding among some licensees that because the tax reports are due on the 25<sup>th</sup> of a month, the licensee's transactions need to be cut off on the 25<sup>th</sup> of the prior month. That is not the case. Monthly tax reports should cover, as closely as possible, all transactions from the first day of the month through the last day of the month. The 25<sup>th</sup> as a due date allows licensees 25 days after the close of the report month to file their tax reports and remit the taxes to the Tax Commissioner.

### **Shrinkage Allowances on Motor Vehicle Fuel Sales for Resale**

Licensees are reminded to review their procedures with regard to the shrinkage allowances taken on line 14 of the motor vehicle fuel tax reports. The law requires that the allowance be passed on to the nonlicensed retailer, and requires that the licensee must clearly document the allowance on the sales and delivery invoice. If the allowance is not passed on, or if proof that the allowance was passed on is not provided, the licensee cannot take a credit on line 14.

### **If You Need Assistance, Contact**

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